

ANS ISSUED

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

Mary Swain,

Plaintiff,

v.

Cohen & Slamowitz, L.L.P.; and  
DOES 1-10, inclusive,

Defendants.

Civil Action No.: \_\_\_\_\_

**CV 13-5403**

**FILED**

IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

★ SEP 27 2013 ★

**COMPLAINT**

**SPATT, J.**

BROOKLYN OFFICE

**WALL, M.J.**

For this Complaint, Plaintiff, Mary Swain, by undersigned counsel, states as follows:

**JURISDICTION**

1. This action arises out of Defendants' repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (the "FDCPA"), in their illegal efforts to collect a consumer debt.
2. Venue is proper in this District pursuant to 28 U.S.C. § 1333(b), in that Defendants transact business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

**PARTIES**

3. Plaintiff, Mary Swain ("Plaintiff"), is an adult individual residing in St. James, New York, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).

4. Defendant Cohen & Slamowitz, L.L.P. ("Cohen"), is a New York business entity with an address of 199 Crossways Park Drive, Woodbury, New York 11797-9004, operating as a collection agency, and is a "debt collector" as the term is defined by 15 U.S.C. § 1692a(6).

5. Does 1-10 (the "Collectors") are individual collectors employed by Cohen and whose identities are currently unknown to Plaintiff. One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.

6. Cohen at all times acted by and through one or more of the Collectors.

**ALLEGATIONS APPLICABLE TO ALL COUNTS**

**A. The Debt**

7. Plaintiff allegedly incurred a financial obligation (the “Debt”) to an original creditor (the “Creditor”).

8. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes, which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

9. The Debt was purchased, assigned or transferred to Cohen for collection, or Cohen was employed by the Creditor to collect the Debt.

10. Defendants attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

**B. Cohen Engages in Harassment and Abusive Tactics**

11. Within the last year, Defendants placed calls to Plaintiff’s emergency Lifeline telephone number in an attempt to collect the Debt.

12. On August 19, 2013, Plaintiff informed Defendants that she was unemployed, suffered from heart disease and could not pay the Debt. Plaintiff also informed Defendants that they were calling her Lifeline telephone number which is used for emergency situations only, and requested that Defendants cease all calls to that number.

13. In response, Defendants stated that Plaintiff was refusing to cooperate and that they would mark Plaintiff’s file accordingly.

14. In addition, Defendants placed at least one call to Plaintiff after 9:00 pm.

**C. Plaintiff Suffered Actual Damages**

15. Plaintiff has suffered and continues to suffer actual damages as a result of

Defendants' unlawful conduct.

16. As a direct consequence of Defendants' acts, practices and conduct, Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

**COUNT I**  
**VIOLATIONS OF THE FDCPA - 15 U.S.C. § 1692, et seq.**

17. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

18. Defendants' conduct violated 15 U.S.C. § 1692c(a)(1) in that Defendants contacted Plaintiff after 9:00 p.m.

19. Defendants' conduct violated 15 U.S.C. § 1692d in that Defendants engaged in behavior the natural consequence of which was to harass, oppress, or abuse Plaintiff in connection with the collection of a debt.

20. Defendants' conduct violated 15 U.S.C. § 1692d(5) in that Defendants caused a phone to ring repeatedly and engaged Plaintiff in telephone conversations, with the intent to annoy and harass.

21. Defendants' conduct violated 15 U.S.C. § 1692f in that Defendants used unfair and unconscionable means to collect a debt.

22. The foregoing acts and omissions of Defendants constitute numerous and multiple violations of the FDCPA.

23. Plaintiff is entitled to damages as a result of Defendants' violations.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully prays that judgment be awarded in Plaintiff's favor and against Defendants as follows:

1. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
2. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A);
3. Recovery of the costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3);
4. Punitive damages in such amount as is found appropriate; and
5. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: September 23, 2013

Respectfully submitted,

By \_\_\_\_\_

Sergei Lemberg (SL 6331)  
LEMBERG & ASSOCIATES L.L.C.  
1100 Summer Street, 3<sup>rd</sup> Floor  
Stamford, CT 06905  
Telephone: (203) 653-2250  
Facsimile: (203) 653-3424  
Attorneys for Plaintiff